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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/474,418	12/29/1999	RONALD G. KENNEDY	GEM-30834	2216

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ZIOLKOWSKI PATENT SOLUTIONS GROUP, LLC (GEMS)  
14135 NORTH CEDARBURG ROAD  
MEQUON, WI 53097

EXAMINER
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VAUGHN JR, WILLIAM C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/474,418

Applicant(s)

KENNEDY, RONALD G.

Examiner

William C. Vaughn, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

WCV

### DETAILED ACTION

1. This Action is in regards to the Request for Reconsideration received on 20 July 2004.
2. The application has been examined. **Claims 1-24** are pending.

#### *Response to Arguments*

3. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

#### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Slayton et al. Jago et al. (Jago), U.S. Patent No. 5,938,607 in view of Wood et al. (Wood), U.S. Patent No. 5,715,823.
6. Regarding **claim 1**, Jago discloses the invention substantially as claimed. Jago discloses *a remote servicing communication system for in-field product comprising: at least one on-line center having access to service software at a centralized facility so as to service in-field product an in-field product at a customer site that is not readily capable of direct communication with the on-line center; at least one portable service interface operable with the in-field product at the customer site and having software for communication with the on-line center; a first communications link connecting the portable service interface to the on-line center; and a*

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*second communications link connecting the portable service interface with the in-field product to complete a connection between the in-field product and the on-line center through the portable service interface* (Jago teaches SMTP server, electronic message capturing problem, image, error log of the ultrasound system and then constructing an electronic message to and from its manufacturer. Jago further teaches a system that includes an HTTP server, and a communication means such as TCP/IP, PPP, modem and Ethernet port for communicating electronic messages to and from the manufacturer. Jago, also teaches the manufacturer returning electronic messages to the ultrasound system and organizing web pages for exchanging information with the ultrasound system in which this implies a web server could possibly be at the manufacturer), [see Jago, Col. 7, lines 63-67, Col. 8, lines 5-26, 49-52]. Eventhough, Jago does imply generating and communicating, error logs. Report, image data in the form of an electronic message from the ultrasound scanner to its manufacturer and in response, the manufacturer returning an electronic message to the respective ultrasound scanner. However, Jago does not explicitly disclose at least one on-line center having access to service software at a centralized facility so as to service in-field product remotely.

7. In the same field of endeavor, Wood discloses (e.g., ultrasound diagnostic imaging system with universal access to diagnostic information and images). Wood discloses *at least one on-line center having access to service software at a centralized facility so as to service in-field product remotely* (Wood teaches a cable is connected from the serial port of the laptop computer to the serial port of the ultrasound system as well as further teaching new techniques for qualifying and testing such software upgrades for ultrasonic diagnostic systems worldwide), [see Wood, Col. 1, lines 7-37, Col. 10, lines 59-67, Col. 11, lines 1-24].

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8. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Wood's teachings of ultrasound diagnostic imaging system with universal access to diagnostic information and images with the teachings of Jago, for the purpose of enabling ultrasound systems to be accessed through an open architecture communication network, whereby image management capabilities may be provided through a conventional off the shelf personal computer with no special hardware, software, or expensive modification [see Wood, Col. 1, lines 40-67 and Col. 2, lines 1-11]. By this rationale **claim 1** is rejected.

9. Regarding **claim 2**, Jago-Wood further discloses *wherein the connection between the in-field product and the on-line center is utilized to conduct a diagnostic evaluation of the infield product* (Jago teaches sending an electronic message that has automatically captured information, problem data, error log, problem occurrence), [see Jago, Col. 8, lines 15-19]. By this rationale **claim 2** is rejected.

10. Regarding **claim 3**, Jago-Wood further discloses *wherein the in-field product is a medical image scanner and the on-line center contains service software designed for utilization with a wide variety of medical image scanners, and wherein after the portable service interface sends a data message identifying the medical image scanner, the on-line center selects service software based on the medical image scanner identification and automatically downloads the selected service* (The Examiner takes Official Notice, (see MPEP 2144.03)): *software to the medical image scanner or executes the selected service software from the portable service interface*. By this rationale **claim 3** is rejected.

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11. Regarding **claim 4**, Jago-Wood further discloses *wherein the connection between the in-field product and the on-line center is utilized to access data from the on-line center* [see Wood, Col. 11, lines 1-24]. The same motivation that was utilized in claim 1, applies equally as well to claim 4. By this rationale **claim 4** is rejected.

12. Regarding **claim 5**, Jago-Wood further discloses *wherein the accessed data from the on-line center includes at least one of a configuration file, a golden file, a protocol and a software program* [see Wood, Figures 8 and 9, Col. 1, lines 40-67, Col. 5, lines 23-47, Col. 6, lines 26-41, Col. 7, lines 56-67, col. 8, lines 1-8, Col. 9, lines 41-59]. The same motivation that was utilized in claims 1 and 4, applies equally as well to claim 5. By this rationale **claim 5** is rejected.

13. Regarding **claim 6**, Jago-Wood further discloses *wherein the portable service interface sends a data message signal to the on-line center identifying the in-field product such that the on-line center selects service software specifically designed for the in-field product* [see Jago, Col. 6, lines 57-67]. By this rationale **claim 6** is rejected.

14. Regarding **claim 7**, Jago-Wood further discloses *wherein the second communication link connecting the portable service interface to the in-field product is one of a serial cable and a local area network cable* [see Wood, Col. 11, lines 10-24]. The same motivation that was utilized in claim 1, applies equally as well to claim 7. By this rationale **claim 7** is rejected.

15. Regarding **claim 8**, Jago-Wood further discloses *the system wherein the portable service interface is a laptop computer having loaded therein remote resource communication software to automatically communicate with the on-line center and transfer data therebetween* [see Jago, Col. 8, lines 5-26]. By this rationale **claim 8** is rejected.

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16. Regarding **claim 9**, Jago-Wood further discloses *wherein the connection to the on-line center provides access to a remote on-line support engineer to provide real time assistance with the in-field product through the portable service interface* [The Examiner takes Official Notice [see MPEP 2144.03]]. By this rationale **claim 9** is rejected.

17. Regarding **claim 10**, Jago-Wood further discloses *a method of providing remote service communication between an on-line center and an in-field product at a customer site where the in-field product is not readily capable of direct communication with the on-line center comprising: loading on-line center connectivity software on a portable service interface* [see rejection of claim 1, supra]; *connecting the portable service interface to the in-field product* [see rejection of claim 1, supra]; *electronically connecting the on-line center with the portable service interface* [see rejection of claim 1, supra]; *accessing data from the in-field with the portable service interface* [see rejection of claim 1, supra]; *and interfacing between the on-line center and the in-field product with the portable service interface* [see rejection of claim 1, supra]. The same motivation that was utilized in claim 1, applies equally as well to claim 10. By this rationale **claim 10** is rejected.

18. Regarding **claim 11**, Jago-Wood further discloses *further comprising the steps of transmitting data identifying the in-field product to the on-line center for evaluating and servicing the in-field product* [see Jago, Col. 8, lines 5-8], *and automatically selecting service software at the on-line center, and generating in-field product evaluation information and displaying the in-field product evaluation information on the portable service interface* [see Jago, Col. 7, lines 25-49]. By this rationale **claim 11** is rejected.

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19. Regarding **claim 12**, Jago-Wood further discloses *wherein the interfacing step includes accessing data from the on-line center including at least one of a configuration file, a golden file, a protocol and a software program* [see Wood, Figures 8 and 9, Col. 1, lines 40-67, Col. 5, lines 23-47, Col. 6, lines 26-41, Col. 7, lines 56-67, col. 8, lines 1-8, Col. 9, lines 41-59]. The same motivation that was utilized in claims 1 and 10, applies equally as well to claim 12. By this rationale **claim 12** is rejected.

20. Regarding **claim 13**, Jago-Wood further discloses *wherein the in-field product is a medical image scanner* [see rejection of claims 1 and 10, supra] *and further comprising automatically selecting at the on-line center service software based on a specific identification of the medical image scanner* [see Figure 11. By this rationale **claim 13** is rejected.

21. Regarding **claim 14**, Jago-Wood discloses *further comprising the step of automatically checking whether a field service engineer requests an analysis/evaluation, and if so, transmitting system data to the in-field product and performing an analysis/evaluation of the in-field product* [The Examiner takes Official Notice [see MPEP 2144.03], See prior art of record, Eastvold et al. (Eastvold), U.S. Patent No. 6,487,513]. By this rationale **claim 14** is rejected.

22. Regarding **claim 15**, Jago-Wood discloses *further comprising displaying results of the analysis/evaluation so that the field service engineer can monitor the analysis/evaluation* [The Examiner takes Official Notice [see MPEP 2144.03], See prior art of record, Eastvold et al. (Eastvold), U.S. Patent No. 6,487,513]. By this rationale **claim 15** is rejected.

23. Regarding **claim 16**, Jago-Wood further discloses *wherein the connecting step further includes connecting the portable service interface to the in-field product by one of a serial cable and a local area network cable* [see Wood, Col. 11, lines 10-24]. The same motivation that was



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utilized in claims 1 and 10, applies equally as well to claim 16. By this rationale **claim 16** is rejected.

24. Regarding **claim 17**, Jago-Wood discloses *further comprising the steps of automatically checking to see whether a field service engineer requests access to remote resource information, and if so, downloading the remote resource information to the in-field product* [The Examiner takes Official Notice [see MPEP 2144.03], See prior art of record, Eastvold et al. (Eastvold), U.S. Patent No. 6,487,513]. By this rationale **claim 17** is rejected.

25. Regarding **claim 18**, Jago-Wood further discloses *further comprising the step of displaying remote resource information to the in-field service engineer* [The Examiner takes Official Notice [see MPEP 2144.03], See prior art of record, Eastvold et al. (Eastvold), U.S. Patent No. 6,487,513]. By this rationale **claim 18** is rejected.

26. Regarding **claim 19**, Jago-Wood further discloses *wherein the electronically accessing step occurs through a global computer network system* [see Jago, Col. 1, lines 14-29]. By this rationale **claim 19** is rejected.

27. Regarding **claim 20**, Jago-Wood further discloses *wherein the electronically connecting step further includes providing access to a remote on-line support engineer to provide real time assistance with the in-field product through the portable service interface* [The Examiner takes Official Notice [see MPEP 2144.03], See prior art of record, Eastvold et al. (Eastvold), U.S. Patent No. 6,487,513]. By this rationale **claim 20** is rejected.

28. Regarding **claim 21**, Jago-Wood further discloses *a method of servicing an in-field product not readily capable of direct communication with a remote on-line center comprising: providing a portable service interface having software for communication with an on-line center*

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*connecting the portable interface [see rejection of claims 1 and 10, supra]; electronically connecting the on-line center with the portable service interface [see rejection of claims 1 and 10, supra] from the portable service interface, selecting at least one servicing function available from the on-line center resulting in at least one of the following: interfacing the in-field product with the on-line center through the portable service interface to conduct a diagnostic evaluation of the in-field product; downloading information to the in-field product from the on-line center through the portable service interface [inherent feature]; and displaying one of the diagnostic evaluation and the downloaded information on the portable service interface as a result of the selecting step [see rejection of claims 1 and 10, supra]. By this rationale **claim 21** is rejected.*

29. Regarding **claim 22**, Jago-Wood further discloses wherein in-field product is a medical image scanner [see Slayton, item 14] *and further comprising the steps of transmitting a data message identifying the medical image scanner from the portable service interface to the on-line center [see Wood, Figure 11], (The same motivation that was utilized in the combination of claims 1, 10 and 21, applies equally as well to claim 22), automatically selecting service software at the on-line center based on the medical image scanner identification, and automatically downloading the selected service software to the medical image scanner [see Slayton, Col. 4, lines 51-52]. By this rationale **claim 22** is rejected.*

30. Regarding **claim 23**, Jago-Wood discloses *further comprising the steps of automatically checking whether a field service engineer requests an analysis/evaluation, and if so, transmitting system data to the in-field product and performing an analysis/evaluation of the in-field product, and displaying results of the analysis/evaluation so that the field service engineer can monitor the analysis/evaluation [The Examiner takes Official Notice [see MPEP 2144.03], See prior art*

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of record, Eastvold et al. (Eastvold), U.S. Patent No. 6,487,513]. By this rationale **claim 23** is rejected.

31. Regarding **claim 24**, Jago-Wood discloses further *comprising the steps of automatically checking to see whether a field service engineer requests access to remote resource information, and if so, downloading the remote resource information to the in-field product, and displaying a remote resource information to the in-field service engineer* [see rejection of claims 10, 14, 15 and 21, supra]. By this rationale **claim 24** is rejected.

### ***Claim Rejections - 35 USC § 103***

32. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

33. **Claims 1-24** are rejected under 35 U.S.C. 103(a) as being unpatentable over Slayton et al. Jago et al. (Jago), U.S. Patent No. 5,938,607 in view of Friz et al. (Friz), U.S. Patent No. 5,786,994.

34. Regarding **claim 1**, Jago discloses the invention substantially as claimed. Jago discloses *a remote servicing communication system for in-field product comprising: at least one on-line center having access to service software at a centralized facility so as to service in-field product an in-field product at a customer site that is not readily capable of direct communication with the on-line center; at least one portable service interface operable with the in-field product at the*

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*customer site and having software for communication with the on-line center; a first communications link connecting the portable service interface to the on-line center; and a second communications link connecting the portable service interface with the in-field product to complete a connection between the in-field product and the on-line center through the portable service interface* (Jago teaches SMTP server, electronic message capturing problem, image, error log of the ultrasound system and then constructing an electronic message to and from its manufacturer. Jago further teaches a system that includes an HTTP server, and a communication means such as TCP/IP, PPP, modem and Ethernet port for communicating electronic messages to and from the manufacturer. Jago, also teaches the manufacturer returning electronic messages to the ultrasound system and organizing web pages for exchanging information with the ultrasound system in which this implies a web server could possibly be at the manufacturer), [see Jago, Col. 7, lines 63-67, Col. 8, lines 5-26, 49-52]. Eventhough, Jago does imply generating and communicating, error logs. Report, image data in the form of an electronic message from the ultrasound scanner to its manufacturer and in response, the manufacturer returning an electronic message to the respective ultrasound scanner. However, Jago does not explicitly disclose at least one on-line center having access to service software at a centralized facility so as to service in-field product remotely.

35. In the same field of endeavor, Friz discloses (e.g., performance monitoring system and method for a laser medical imager). Friz discloses *at least one on-line center having access to service software at a centralized facility so as to service in-field product remotely* (Friz teaches performance monitoring system whereas software that can be installed in any location, i.e., local

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or remote location.), [see Friz, Col. 1, lines 11-67, Col. 2, lines 1-67, Col. 3, lines 23-45 and Col. 11, lines 3-20].

36. Accordingly, it would have been obvious to one of ordinary skill in the networking art at the time the invention was made to have incorporated Friz's teachings of a performance monitoring system and method for a laser medical imager with the teachings of Jago, for the purpose of eliminating the need for manual generation of reports by technicians as well the need to minimize modification and cost, the combination would enable Jago to better control quality of service provided to the equipment, patients, in addition to minimizing equipment downtime, preventing unexpected equipment failures. By this rationale **claim 1** is rejected.

37. With regards to 2-9, 11-20 and 22-24, the limitations of these claims are taught within the figures and disclosures of Jago-Friz.

### ***Double Patenting***

38. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

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provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

**Claims 1-24** are provisionally rejected under the judicially created doctrine of double patenting over claim 1-44 of Application No. 09/199,506. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced application and would be covered by any patent granted on that copending application since the referenced application and the instant application are claiming common subject matter. Although the conflicting claims are not identical, they are not patentably distinct from each other because the context of the claimed invention is the same as the context of the cited claims of the U.S. Patent Application 09/199,506.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other application.

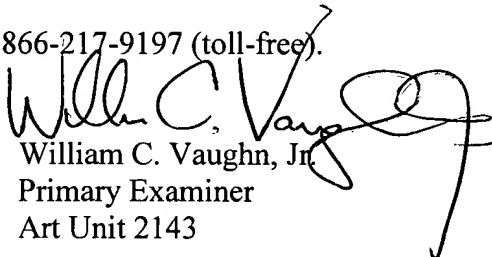
### ***Conclusion***

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William C. Vaughn, Jr. whose telephone number is (571) 272-3922. The examiner can normally be reached on 8:00-6:00, 1st and 2nd Friday Off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William C. Vaughn, Jr.  
Primary Examiner  
Art Unit 2143

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